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ABSTRACT

An analysis of court cases and Equal Opportunity Employment Commission decisions was undertaken to highlight problems of Asian Indian academics who are involved in filing discrimination complaints. These data were supplemented by informal interviews with faculty members who have filed complaints. The analysis indicates that the academics must carefully consider the consequences of filing formal charges against their institutions. The administrative agencies designed to receive discrimination complaints rarely indicate that they are unable to effectively protect minority group members against repercussions from their universities. Private law suits can be filed against institutions but local courts rarely label their local university as a discriminatory institution and the judicial process is extremely slow. Asian Indian academics can, if they feel they are being discriminated against, seek another position, utilize on-campus political processes, or, as a last resort, seek assistance from outside administrative agencies. (MK)

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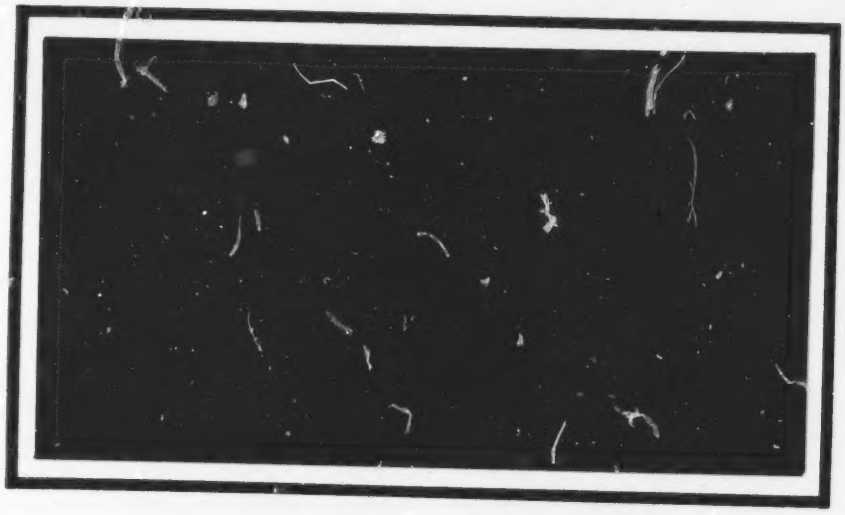

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ASIAN-INDIANS IN SEARCH OF EQUALITY: SOME MUNDANE CONCERNS IN COMPLAINING ABOUT EMPLOYMENT DISCRIMINATION IN AMERICAN ACADEMIA BY ASIAN INDIANS

by

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"And when Americans are sent to
Vietnam we do not ask for White only. . . . . ."

John F. Kennedy
June 11, 1963

I

INTRODUCTION

The people of Indian origin in the United States may have found a new demographic label by the grace of American census bureaucracy.[1] Several studies both impressionistic and empirical have shown that there is wide variations in the orientations of the Asian Indians toward this newly earned minority status in the pluralistic political system.[2] One statutory right that emanates from this minority status is the legal right of Asian Indians to file employment discrimination complaints.[3] But the legislative enactments tell only one side of the story. Any student of political behavior is aware of the problem of translating legislative intent into empirical realities.

The purpose of this paper has a limited goal of identifying the special problems of Asian Indian faculty members in American colleges and universities who choose to file employment discrimination complaints. This analysis is primarily based upon a review of Court cases and EEOC decisions dealing with the discrimination complaints of the Asian Indians. Such data are supplemented by informal interviews with faculty members of Asian Indian origins who have filed discrimination complaints.[4]

II

EMPLOYMENT DISCRIMINATION IN AMERICAN ACADEMIA: A TYPOLOGY

Are the Asian Indians discriminated in the United States in matters involving employment? Those who disagree with this would point their finger at Hargobind Khorana, Zubin Mehta and other successful people. There are those who would argue that the American employers do not discriminate against anybody. They look for competent people who work hard. If an Asian Indian is good and works hard then he could rise to any height in the organizational hierarchy of any work situation. But the fact is that there are other people of Asian Indian origin who do perceive discrimination in their work settings.

As far as the discrimination in American colleges and universities are concerned, any attempt by a researcher to study this problem is likely to face paucity of data. Very few American academics care to complain about racial discrimination in their home institution. It is fashionable in the academia to offer courses with titles like "Discrimination," "racism," Ethnic Politics." But when it comes to analyzing discriminations in their own institutional setting, they do not think that any such thing exists on their campus. Based on available data we may propose the following typology of employment discriminations expend by the Asian Indian academics.

Table No. 1

EMPLOYMENT DISCRIMINATION
EXPERIENCED BY ASIAN INDIAN ACADEMICS

TYPOLOGY	DESCRIPTION
1) REVOLVING DOOR APPOINTMENT	Such discrimination involves systematic appointment of Asian Indian

Table No. 1 - Continued

TYPOLOGY	DESCRIPTION
	Faculty members to temporary non-tenure track positions. Some of these involve leave vacancies and others lower level teaching assignments. Very few White Americans are available for these jobs except those who lack a terminal degree or have no other jobs.
2) GOLD MINE APPOINTMENT	Such discrimination involves systematic appointment of Asian Indian faculty members in research project oriented non-tenure track jobs. All such posts are funded by external grants, generated by the Asian Indian Faculty. As long as the Asian Indians keep bringing external funds for research, they stay on. If they fail to do so, then they lose their jobs.
3) NON-TENURABLE	This type of discrimination involves denial of tenure to Asian Indian faculty upon completion of their probationary period which may stretch up to 7 years. In general, no reasons are assigned for such termination. In other cases the reasons include "institutional need," "need to up grade faculty quality," and sometimes "poor English" and "heavy accent."
4) NOT ADMINISTRATIVE TYPE	This type of discrimination involves denial of prestigious administrative jobs to Asian Indians such as chairmanship, deanship and other higher administrative positions. In most cases no reasons are given for such denials. Occasionally vague statements are made as follows: "Does not have administrative potential," Lacks the support of colleagues," and "A good researcher but a lousy administrator."
5) NOT PROMOTABLE	This type of discrimination involves denial of Professorial positions to Asian Indian faculty. The justifications for such denial are rarely

Table No. 1 - Continued

TYPOLOGY	DESCRIPTION
	specific. But some of the following statements are typical: "Your publications are impressive in quantity but not in quality." "Your work has not received national recognition."
6) KEEP YOU IN FILE 2) [illegible]	This type of discrimination involves systematic discrimination in faculty hiring. Asian Indian candidates are routinely screened out, unless White Americans are not available. It seems they are preferred over Black Americans, Oriental Americans and others. Courteous replies are sent to candidates about their "over qualifications," "impressive vita" and other factors. Sometimes they are told to look for a position in India thereby contribute to India's development
7) LOW SALARY	Apparently this is a rather pervasive discrimination experienced by the Asian Indians in the American academia. Their salaries significantly fall short of the salaries of comparable White Americans.
8) EXCLUSION FROM SINECURIAL APPOINTMENTS	Several American universities have created what we may call as sinecurial appointments. These positions are known as "Distinguished Scholars" "University Professorship," "Distinguished Teacher," etc. Sometimes one finds a so called distinguished scholar may have written only a letter to the newspaper editor in his life. A distinguished teacher may have taught freshmen class with high school level sophistication. But these do carry a fat salary supplement. In general Asian Indian faculty are rarely appointed to such posts.

It seems pertinent to add here that the typology of employment

discrimination suggested above are to a varying degree practical in several American colleges and universities. But how pervasive is this pattern? Which typs of universities tend to indulge in such discriminations? What sort of administrators legitimize the continuance of such discriminatory practices? In the absence of comprehensive field data it is difficult to answer these questions. But there are reasons to believe that such practices tend to vary from one type of institution to another. For instance, developing institutions that have newly acquired a taste for "federal grants" and the soft money that comes with it would exploit Asian Indian faculty for the purpose of obtaining external grants. Such people are deliberately assigned non-tenure track research positions primarily to generate soft money for the institution.

A prestigious university that does not find a suitable white candidate for a faculty opening may exploit a distinguished Asian Indian faculty in visiting position. White institutions that are under pressure for hiring minority faculty choose Asian Indian candidates over black candidates. But this helps them to fill their quota of minority hiring.

Similarly, a prestigious university that had hired an Asian Indian faculty member ten years ago and is having enrollment problems may choose to deny promotion or salary increases to push out the Asian Indian faculty and make room for a White American candidate.

III

COMPLAINT-HEARING AGENCIES

There is a plethora of organizations and agencies that receive and handle the employment discrimination complaints from the minority employees. These include the Federal Equal Opportunity Employment

Commission, the Office of Contract Compliance, the Wage and Hour Division of the U.S. Department of Labor. At the State level some states have what is known as "706 Agencies" designed to investigate such complaints. Such agencies also exist at some local government level. Most major employers including the government agencies have their in-house complaint-handling officers who are specifically appointed to protect the minority employees. In general, a major problem with all these agencies is that their process of handling complaints tend to be dilatory.

Further, most of the complaint-handling officials who lack independence from the institutional administrative structure tend to be defenders and apologists for the institution. Whenever cases involving complaints are filed these officials are primarily ordered to obtain institutional data to disprove the legitimacy of employees' complaint. If an Asian Indian complains about salary, then these people manufacture statistics to show that there are Caucasian employees in similar situations and as such there is no legitimate case for discrimination. Similar data are collected for cases involving denial of promotion, non-appointment to supervisory position and other cases.

As regards EEOC, the key federal agency, the major problem involves its workload. Depending upon the location of the field offices, the complaint charges are delayed to a great extent. In recent years, the EEOC has established new guidelines for charge processing. Despite such administrative innovation complaint-processing by federal EEOC tends to be a dilatory process. An attempt to classify the various complaint handling agencies have been made below.

Table No. 2

A CLASSIFICATION OF COMPLAINT-HANDLING AGENCIES

COMPLAINT HANDLING AGENCIES	PROBLEMS ASSOCIATED WITH DEALING WITH THEM
1) On-Campus Complaint-Handler	These officials are generally defenders and advocates of the institutional policies. Little is achieved by contacting them except delay and time for the institution to manipulate supportive data on discrimination.
2) State/Local Level Complaint-Handling Agencies	These agencies fall under two categories. The first are known as 706 agencies recognized by the EEOC as such. Complaints are required to be filed with them before EEOC could act. The second type state agencies are those that are created within state bureaucracy. These agencies are not very effective.
3) Federal Agencies	There are several federal agencies including the following: EEOC, OFCC, HEW.

The experience of the Asian Indian faculty in dealing with these complaint-handling agencies seem varied. In some cases federal agencies have effectively enforced the law. The federal agencies use the executive order 11246 to achieve compliance when civil rights law enforcement seems dilatory. The State and local level agencies have a very limited impact. The greatest problem with these agencies is that these are subject to the political pressures. Both the community and the State level political elites may put political pressure to impact their effectiveness. Limited research on on-campus Affirmative Action Officers indicate that they are the effective link in the complaint-handling process.

In general, all these agencies are least effective in protecting the complainants against reprisal and retaliation. The next section

would elaborate the retaliatory strategies utilized by the academic administrators to deal with the Asian Indians.

IV

RETALIATION AGAINST COMPLAINING ASIAN INDIANS IN AMERICAN ACADEMIA

Any type of employment discrimination complaint by an employee has potential threat of retaliation by employer. The Civil Rights legislation provides "legal protection" against retaliation. The Courts have upheld complainants' rights against retaliation by the employee. In this section, we shall attempt to categorize the types of retaliatory situations experiences by the comaplaining Asian Indian faculty in the American academia.

Manipulation of Evaluation

In a rather subtle manner the concerned administrators tend to manipulate the evaluations of the comaplaining Asian Indian faculty. The academics are generally evaluated for their performance in the areas of Research, Teaching and Public Service. Since such evaluations can not be made in quantitative terms, manipulation of evaluative data is rather easy.

In general immediate supervisors of the Asian Indian faculty are used by the high-level administrators for this purpose. There are cases where department chairmen who do not have tenure on their job have falled pray to such strategies. For instance, an Asian Indian faculty who had consistently high evaluation, till he complained. Then the Dean appointed a non-tenured weakling as chairman and asked him to manipulate the evaluation of the Asian Indian.

Social Ostracism

Once the words get around the campus that a person has filed discrimination complaint, most colleagues start avoiding this person. Even customary greetings are discontinued. Some secretaries of the involved administrators may also do the same. The complaint is perceived as a "troublemaker." Since most Asian Indian faculty serve in institutions that may not have other Asian Indian social isolation becomes unbearable. Even other Asian Indians start avoiding the complainant.

Unpleasant Work Scheduling

Most American academics prefer a flexible work schedule and are able to work it out. But once a person has filed a discrimination charge the concerned administrators manipulate the schedule. The complainant academic may be asked to teach a 8 a.m. class, another at 1 p.m. and the third one at 7 p.m. Thus it is possible to tie up the complaints' whole day leaving very little room for research productivity.

Office Moving

The academics who complain may be assigned office space in remote buildings located far away from their classes and laboratories. The pretext for such relocation could be simply "institutional reorganization of Space." Sometimes if more than one complaining Asian Indians are located in a single building some administrators find it an effective strategy to disperse them around campus.

Denial of Funds

The American aacemics receive many types of limited financial support in the forms of travel grant, small research grants, faculty

development grants and such other funds. The policy for the distribution of such funds tend to be flexible. Once a faculty member has complained discrimination, the individual is deprived of such support on the pretext of "lack of funds," "committee did not recommend." In most cases the committees are handpicked by administrators who dare not support the "troublemaker Asian Indian."

Denial of Academic Plums

In every American academia there are committees of varying degree of prestige and usefulness. Committees are formed for evaluating the faculty member and also to hear the appeals on parking tickets. Again the membership of such committees are handpicked by administrators.

The complaining faculty member is either not appointed to any committees are is appointed to insignificant ones.

Black-balling in the Profession

This type of retaliation involves passing around the word about the complaining Asian-Indian among the professional peers in other institutions. Nothing is done in writing. Phone calls and words at professional meetings take care of the situation.

The image of the complainant is projected as a troublemaker. Other institutions hesitate to offer jobs to such troublemakers.

Denial of Visibility

Most American campuses have information services that provide media visibility for faculty achievement. Once an Asian Indian faculty is labelled as "troublemaker" no news about his person seems newsworthy. Write-ups about this person are discarded discretely and the person's picture never appears in the campus or community media.

Student Stealing

Most academics consider it a prestige to direct the work of advanced graduate students. Once an Asian Indian faculty has filed a complaint most of this person's thesis students disappear. They are discretely advised to work with someone else. During lean summer sessions very few students sign up for the complainants' course, thereby depriving the person from summer income.

Surveillance on Schedule

In general, academics prefer a flexible class structure. Professional meetings and research commitment may create a situation that demand class cancellation by them. Such classes are either rescheduled or covered through independence research. Once an Asian Indian faculty has complained, the department chairman may closely observe the class timing. If the chairman sees the faculty fifteen minutes before the official class ends, he may seek a written explanation from the faculty.

In general, the retaliatory situation outlined above indicate that the administrators in American academia utilize a rather subtle technique to harass the Asian Indian academic who chooses to file a formal employment discrimination complaint. This situation primarily arises out of the administrator's conviction that EEOC and/or other complaint handling agencies have a huge backlog and are unlikely to act very soon. In the mean time utilization of such retaliatory acts would get rid of the "Indian" from campus. They believe that they have done a great favor by giving a job to an Indian but he still dares to complain. One administrator made an off the cuff remark "You Indians bite the hand that feeds you."

CONCLUSIONS

This working paper has attempted to highlight certain mundane problems involved in filing employment discrimination complaints. As this analysis indicates Asian-Indian academics who feel they are discriminated need to ponder the consequences of filing formal discrimination charges against their institution. In general, the administrative agencies that have been designated to receive complaint of minorities rarely indicate the implication of filing discrimination complaints. They routinely emphasize that the agnecy would invoke section 704(a) of the Civil Rights Act to protect them from harassment and intimidation. But in reality, they are not very effective in protection.

A private law suit against the institution is a possibility. But the local courts would rarely label their local University as a discriminating institution. The politics of judicial behavior is well-known. Further, judicial decisions are arrived at after several years.

What are the options for an Asian Indian academic who perceives employment discrimination in the institution. The academic, if marketable, could seek another position. If not marketable then the on campus political process should be utilized to achieve the objective. But utilization of outside administration agencies ought to be the last resort. A person has to be very strong to survive the onslaught of retaliation in American academia. The American academia has one message for Asian Indians- "Love it or leave it."

REFERENCES

[1]The Census of 1980 classified the people of India as "Asian Indians" and not as "Caucasians."

[2]For an empirical study see this author's "Perceptions of Discrimination among Overseas Indians in America," Asian Profile, April 1979.

[3]The Indian immigrants could also utilize "national origin" as a basis for filing discrimination complaint before acquiring racial minority status.

[4]Such data were collected during several professional conferences between1977 to 1980.

END

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